

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement • • Statements of Economic Interest
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

January 30, 1985

Philip Mering
King & Mering
Court Plaza Building
901 H Street
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-84-325

Dear Mr. Mering:

Thank you for your letter requesting advice on behalf of the members of the Isleton Redevelopment Agency regarding their duties under the conflict of interest provisions of the Political Reform Act.^{1/} This advice is based on the information you have provided in your letter and in telephone conversations.

FACTS

The five members of the Isleton City Council also serve as the Directors of the Isleton Redevelopment Agency.

The Redevelopment Agency has already adopted a redevelopment project area. Currently, the Redevelopment Agency is considering a proposal for the construction of a marina and related facilities, including a resort lodge, residential units, food and beverage facilities, recreational facilities, and boat and recreational vehicle storage within a portion of the redevelopment area. The proposal, known as the Isleton Landing Project, consists of two phases, a lodge phase and a motor and marina resort phase.

The proposed Isleton Landing Project would be located on the east side of the City of Isleton. You have stated that one

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise specified.

of the principal effects of the project would be to revitalize the adjacent commercial area on Main Street. Main Street is one of the access routes to the proposed project. Currently, most properties on Main Street are in a deteriorated condition.

All five members of the Redevelopment Agency have financial interests located in or near the redevelopment project area.

DISCUSSION

The Political Reform Act prohibits a public official from making, participating in, or using his official position to influence a governmental decision in which the official has a financial interest. Section 87100. A public official has a financial interest in a governmental decision when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on any of the following interests:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

(Section 87103.)

You have asked whether any of the members of the Isleton Redevelopment Agency are required to disqualify themselves from participating in decisions concerning the proposed Isleton Landing Project.

Mayor George Apple:

Mayor Apple operates a photography business, and he has an investment of more than \$1,000 in that business. He has received income in excess of \$250 during the past 12 months from his photography business. Mayor Apple rents his photography studio on a month-to-month basis. His studio is located approximately four blocks from the proposed Isleton Landing Project, but within the redevelopment project area.

Mayor Apple also owns a residence which is located outside the redevelopment project area.

Mayor Apple has an investment interest in his photography business. He must refrain from participating in any governmental decision which would have a reasonably foreseeable material financial effect on his photography business, distinguishable from the effect on the public generally.

In general, the effect of a decision on a financial interest is material if it is significant. 2 Cal. Adm. Code Section 18702 (copy enclosed). In addition to the general test of significance, the Commission has adopted monetary guidelines for determining the materiality of an effect on a business entity.

Generally, for a business entity the size of Mayor Apple's photography business, an effect is considered material if it increases or decreases the annualized gross revenues by 1 percent, but not less than \$1,000. 2 Cal. Adm. Code Section 18702(b)(1).^{2/} Due to the distance of Mayor Apple's photography business from the proposed Isleton Landing Project, and the difficulty in foreseeing an increase in the revenues of a photography business that is distinguishable from a general increase in business activity in Isleton due to the proposed marina resort, it does not seem foreseeable that the proposed project would have a material effect on the annualized gross revenues of Mayor Apple's photography business.

^{2/} The Commission is currently considering amendments to these monetary guidelines. On February 7, 1985, the Commission staff will hold a public workshop on the proposed amendments. (See enclosed copy of notice of proposed regulation.)

Mayor Apple's photography business is also a source of income to him. The Commission's regulations for determining the materiality of the effect of a decision on a source of income that is a business entity are the same regulations discussed above for determining a material effect on a business entity. 2 Cal. Adm. Code Section 18702(b)(3)(C). Accordingly, the proposed Isleton Landing Project would not have a reasonably foreseeable material financial effect on the income Mayor Apple receives from his photography business.

Mayor Apple may also have a financial interest in the real property where his photography studio is located due to his month-to-month lease of that property. If Mayor Apple pays more than \$1,000 rent during a period of three consecutive months, he has a financial interest in that real property for purposes of Section 87103, and must refrain from participating in any decision which would have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, on that real property. (See the enclosed copy of the Commission's Overstreet Opinion, 6 FPFC Opinions 12 (No. 80-010, March 2, 1981).

The Commission has adopted the following monetary guidelines for determining the materiality of an effect on an interest in real property.^{3/}

(2) Whether, in the case of a direct or indirect interest in real property of one thousand dollars (\$1,000) or more held by a public official, the effect of the decision will be to increase or decrease:

(A) The income producing potential of the property by the lesser of:

1. One thousand dollars (\$1,000) per month; or

2. Five percent per month if the effect is fifty dollars (\$50) or more per month; or

(B) The fair market value of the property by the lesser of:

^{3/} The Commission is currently considering amendments to these guidelines. You will receive a notice of any proposed amendments.

1. Ten thousand dollars (\$10,000); or
2. One half of one percent if the effect is one thousand dollars (\$1,000) or more.

2 Cal. Adm. Code Section
18702(b) (2).

Due to the distance between the real property where Mayor Apple's studio is located and the proposed Isleton Landing Project, it does not appear to be reasonably foreseeable that the project will have a material effect on that real property.

Finally, Mayor Apple owns real property, which is his personal residence. This real property is located outside the redevelopment project area and across the City from the proposed Isleton Landing Project. Due to the distance between this real property and the proposed Isleton Landing Project, and the fact that the property is zoned for residential use, it is not reasonably foreseeable that the decisions regarding the project would have a material financial effect on Mayor Apple's residence.

Councilman Paul DeMesa:

Councilman DeMesa owns real property located in the redevelopment project area and within one block of the proposed Isleton Landing Project. The real property is zoned for commercial use, and serves as his residence and as the location of his barbershop. Councilman DeMesa has an investment in excess of \$1,000 in his barbershop business, and receives income of more than \$250 per year from the barbershop business.

Councilman DeMesa must disqualify himself from participating in any decision which may foreseeably materially affect his real property in a manner distinguishable from its effect on the public generally. The monetary guidelines for determining materiality are discussed above in relation to Mayor Apple's photography studio location.

Councilman DeMesa's property is within one block of the area proposed for boat slips and commercial facilities connected with the marina, and within approximately 500 feet of the proposed lodge site. The property is located on Main Street, one of the main access routes to the proposed project. You have stated that one principal effect of the proposed Isleton Landing Project would be to revitalize Main Street. These factors indicate that there is a substantial likelihood that the value

Philip Mering
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Page 6

of Councilman DeMesa's property would be significantly affected by the project. In addition, because Councilman DeMesa's property is zoned for commercial use, its value is likely to increase as a result of a nearby major project which is designed to stimulate commercial activity in the area. Accordingly, I agree with your conclusion that the proposed Isleton Landing Project would have a material effect on Councilman DeMesa's real property.

It is also necessary to consider whether Councilman DeMesa's real property would be affected by the proposed Isleton Landing Project in a manner that is distinguishable from the effect of the project on the public generally. In regulation 2 Cal. Adm. Code Section 18703, the Commission has determined that a material financial effect of a governmental decision on an official's interest is distinguishable from its effect on the public generally unless the decision will affect the official's interest in substantially the same manner as it will affect all members of the public or a significant segment of the public. Generally, commercial property owners are not a significant segment of the public. See Opinion requested by William L. Owen, 2 FPFC Opinions 77 (No. 76-005, June 2, 1975). The effect of the proposed marina resort project on commercial properties located on Main Street appears to be distinguishable from its effect on other properties in Isleton because of the proximity of the Main Street properties to the proposed project. I have also based this conclusion on your statement that the proposed marina resort project would revitalize Main Street in particular, which indicates that Main Street would receive the majority of the benefits resulting from the proposed project. Therefore, Councilman DeMesa must disqualify himself from participating in decisions concerning the proposed Isleton Landing Project.^{4/}

Councilman DeMesa also has a financial interest in his barbershop business due to his investment of more than \$1,000 in the barbershop. Although the barbershop is located only one block from the proposed Isleton Landing Project, it is difficult to foresee a material effect on the revenues of the barbershop

^{4/} Although you did not discuss the public generally exception in your analysis, the fact that you have concluded that the proposed project would materially affect Councilman DeMesa's commercial property, but not the commercial property of Mayor Apple or Councilman Gardiner, indicates that you conclude the public generally exception does not apply to Councilman DeMesa's property.

as a result of the project that would be distinguishable from the effect of the project on business activity in Isleton generally. The analysis requires a comparison of the effect of the marina resort project on businesses on Main Street with businesses located elsewhere in Isleton, and a determination as to whether the businesses on Main Street constitute a significant segment of the commercial establishments in Isleton. You have not provided this information, and since I have concluded that Council DeMesa's real property interest requires his disqualification, I shall not further discuss the potential conflict of interest regarding Councilman DeMesa's barbershop business.

Councilman Larry Gardiner:

Councilman Gardiner owns real property adjacent to the redevelopment project area, but located approximately eight blocks from the proposed Isleton Landing Project. A portion of this property serves as his residence. A warehouse is located on the other portion of the real property, and Councilman Gardiner leases this warehouse to a radiator business.

Councilman Gardiner also has an investment in excess of \$1,000 in a farming partnership and receives income in excess of \$250 per year from the partnership.

Because of the distance between Councilman Gardiner's real property and the proposed Isleton Landing Project, I conclude that the project would not have a reasonably foreseeable material effect on the property which is distinguishable from the effect on the public generally. The same analysis applied to Mayor Apple's property and business interests would apply in this case.

Similarly, there is no evidence indicating that the proposed Isleton Landing Project would have a material effect on Councilman Gardiner's farming partnership. The farming partnership has no property interests within the City of Isleton which would be affected by the proposed project.

Councilman Fred Wilson:

Councilman Wilson owns real property, which serves as his residence, located one block from the redevelopment project area and approximately six blocks from the proposed Isleton Landing Project.

Due to the distance of Councilman Wilson's residence from the proposed Isleton Landing Project, and the fact that the

Philip Mering
January 30, 1985
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property is zoned for residential use, I conclude that the proposed project would not have a foreseeable material effect, distinguishable from the effect on the public generally, on Councilman Wilson's residence.

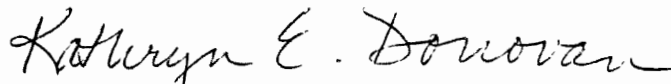
Councilman Halvard Andersson:

Councilman Andersson owns real property which is used as his residence. This property is zoned for commercial use, and is located within the redevelopment project area and across the street from the proposed Isleton Landing Project. According to the project plans, the resort lodge and related facilities would be directly across the street from Councilman Andersson's property.

Using the same analysis discussed with regard to Councilman DeMesa's real property, I conclude that the proposed Isleton Landing Project would have a material effect on Councilman Andersson's real property. The proximity of the property to the proposed project, the fact that the property is zoned for commercial use, and the location of the property on Main Street indicate that the proposed project would have a foreseeable material effect on Councilman Andersson's real property, distinguishable from its effect on the public generally. Accordingly, I agree with your conclusion that Councilman Andersson must refrain from participating in any decisions concerning the proposed Isleton Landing Project.

If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,



Kathryn E. Donovan
Counsel
Legal Division

KED:plh
Enclosures

KING & MERING
ATTORNEYS AT LAW
COURT PLAZA BUILDING
901 H STREET
SACRAMENTO, CALIFORNIA 95814
TELEPHONE 442-0794

December 28, 1984

PHILIP MERINO
CYNTHIA ZBERG

HAROLD T. KING
OF COUNSEL

Barbara Milman, General Counsel
Fair Political Practices Commission
P. O. Box 807
Sacramento, CA 95804

Re: Isleton Redevelopment Agency

Dear Ms. Milman:

I am the City Attorney for the City of Isleton and I am writing to you at the direction of the Isleton City Council.

The City of Isleton has formed a Redevelopment Agency and the members of the City Council serve as the members of the agency Board of Directors.

The Redevelopment Agency has adopted a redevelopment project area. The boundaries of the project are outlined on the enclosed map. The Redevelopment Agency is considering a proposal for the construction of a marina and related facilities including a lodge, residential units and boat and recreational vehicle storage within a portion of the project area. The proposal is known as the Isleton Landing Company project (ILCO). The project consists of two phases: The lodge phase and the motor and marina resort phase.

The Isleton Redevelopment Agency has been asked to enter into Disposition and Development Agreements covering each phase of the project and a copy of each proposed agreement is enclosed.

A question has been raised regarding a possible conflict of interest of each agency/council member and your office has been requested to prepare an opinion covering the same. To assist you in the preparation of your opinion, I refer you to the enclosed map which sets forth the boundaries of the ILCO project and the location of the real property interests held by each agency/council member. You will also find enclosed, a copy of the most recent Statement of Economic Interests for each member of the City Council, which sets forth financial interest held by each.

Barbara Milman, General Counsel

December 28, 1984

RE: Isleton Redevelopment Agency

I had previously prepared an opinion for the City regarding the conflict of interest question and a copy of my opinion is likewise enclosed.

If you require additional information, please let me hear from you. It is my understanding that you will require approximately three weeks to render an opinion.

The Disposition and Development Agreements will be back before the Redevelopment Agency at its meeting February 13, 1985 and I would hope that your opinion will be in my hands well in advance of said date.

Very truly yours,

KING & MERING


Philip Mering

PM:n

enclosures

cc: Isleton City Council

State of California



Fair Political Practices Commission

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February 25, 1985

James C. Gross
Nielsen, Hodgson, Parrinello
and Mueller
1030 - 15th Street, Suite 250
Sacramento, CA 95814

Re: Isleton Redevelopment Agency

Dear Mr. Gross:

We have received your law firm's letter to Mr. Halvard Andersson of the Isleton Redevelopment Agency advising him that he is not required to disqualify himself from participating in the Redevelopment Agency's decisions regarding the proposed Isleton Landing Project. The letter contains information which was not included in the information I considered when I advised Mr. Philip Mering, City Attorney for Isleton, that Mr. Andersson must disqualify himself from participating in the Redevelopment Agency decisions regarding the proposed Isleton Landing Project.

If you would like me to reconsider the advice to Mr. Andersson, in light of the new information, I will need answers to the following questions about the effect of the Redevelopment Plan on Mr. Andersson's property.

(1) How does the Redevelopment Plan affect the use of Mr. Andersson's property? Please enclose a copy of the portions of the Redevelopment Plan that are relevant to your answer.

(2) If the Isleton Landing Project is approved, would there be any limitations on Mr. Andersson's ability to continue to use his property as his residence, to convert the property to commercial use without selling it, or to sell his property? Please explain these limitations and discuss any procedures that Mr. Andersson could use to obtain a waiver of these limitations.

(3) If the Isleton Landing Project is not approved, would there be any limitations of Mr. Andersson's ability to continue to use his property as his residence, to convert the property to commercial use without selling it, or to sell his property?

James C. Gross
February 25, 1985
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Please explain these limitations and discuss any procedures that Mr. Andersson could use to obtain a waiver of these limitations.

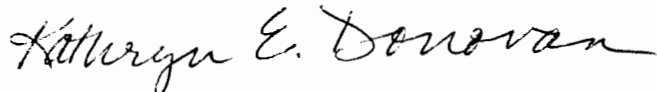
(4) If the Isleton Landing Project is approved, what are the projected timelines for the completion of the project? Would any limitations on Mr. Andersson's use of his property change as the various project phases are completed?

(5) If the Isleton Landing Project is not approved, what specific alternative projects or additional projects are included in the Redevelopment Plan? Please enclose a copy of the portions of the Redevelopment Plan that are relevant to your answer.

(6) Are any of the answers to the above questions in dispute locally? If so, please explain the nature of the dispute.

Your prompt response to these questions will assist me in providing timely advice regarding Mr. Andersson's participation in the decisions of the Isleton Redevelopment Agency. I understand that the next meeting of the Isleton Redevelopment Agency is scheduled for March 12, 1985, but I cannot guarantee that I will be able to advise you on this matter before that meeting. I will keep you informed as to when you may expect to receive my letter.

Very truly yours,



Kathryn E. Donovan
Counsel
Legal Division

KED:plh
cc: Philip Mering
Lee Savage

LAW OFFICES OF
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March 11, 1985

5982.01

Kathryn E. Donovan, Esq.
Legal Division
Fair Political Practices Commission
1100 K Street
Sacramento, California 95814

Re: Isleton Redevelopment Agency
File No. A-84-325

Dear Kathy:

This letter is in response to your letter of February 25, 1985 in which you invited us to submit further information on behalf of our client, Mr. Hal Andersson, regarding the Isleton Redevelopment Agency. I understand that submission of this letter at this late date will make it extremely difficult for you to respond by March 12, 1985, the scheduled date for the next Isleton Redevelopment Agency meeting. However, due to circumstances beyond our control, we were not able to respond until now.

You have asked for certain information relating to the Isleton Redevelopment Plan and Mr. Andersson's property. Some of this information was contained in the letter opinion we provided Mr. Andersson. This letter restates that information and attempts to provide you with the other information you have requested.

Question No. 1

How does the redevelopment plan affect the use of Mr. Andersson's property?

Answer to Question No. 1

In order for you to understand how the redevelopment plan affects the use of Mr. Andersson's property, a history of redevelopment in the City of Isleton is necessary. We have consulted redevelopment land experts as well as legal counsel involved in the redevelopment process in Isleton in order to compile this information.

The original general plan of the City of Isleton designated the use of Mr. Andersson's property to be for public or quasi-public use (see Map of 1979 general plan, attached

hereto as Exhibit "A"). The definition of public or quasi-public use was not set forth in the general plan. When redevelopment was proposed in the City of Isleton, it was necessary to perform a redevelopment market analysis (see Health and Safety Code Section 33352). The concept diagrams of the redevelopment market analysis submitted to the City Council showed that the most appropriate use of Mr. Andersson's property would be as an "information center" (see Conceptual Diagram, Special Project Area, attached hereto as Exhibit "B"). This was consistent with the general plan as it read at that time.

Subsequent to preparation of the redevelopment market analysis, an environmental impact report ("EIR") was prepared for the proposed redevelopment plan. This report stated that certain amendments to the general plan of the city were required in order to conform the proposed redevelopment plan to the general plan. Many areas were targeted for the required amendments (see "Relationship to General Plan." attached hereto as Exhibit "C"). The public and quasi-public areas were not targeted for amendment because they were consistent with the redevelopment plan. Under California law, the EIR became an essential and binding component of the redevelopment plan (see California Health and Safety Code § 33352 and Public Resources Code § 21151).

However, at the time the EIR was prepared, it appears that the general plan was amended with regard to the public and quasi-public areas of Isleton. This rendered the general plan inconsistent with the EIR, which had based its assumptions on certain uses designated by the general plan. The result is that despite an apparent designation of Mr. Andersson's property for commercial/residential use under the general plan and redevelopment plan, because that is inconsistent with the EIR, he may not use his property for commercial purposes.

As is evident from the chain of events, the actions of the City of Isleton with regard to redevelopment efforts is somewhat confused and disjointed. Nevertheless, on the basis of our analysis of the Isleton General Plan and Redevelopment Plan, as dedicated and modified by the redevelopment market analysis and EIR, Mr. Andersson can have no financial interest in the decision regarding the Isleton Landing Project. Once again, this is because the EIR was based on and was consistent with the 1979 general plan. If Mr. Andersson's property is to be used for a commercial purpose, then a new EIR would be needed. The redevelopment plan must remain consistent with the use of the property according to the EIR.

Question No. 2

If the Isleton Landing Project is approved, would there be any limitations on Mr. Andersson's ability to continue to use his property as his residence, to convert the property to commercial use without selling it, or to sell his property?

Answer to Question No. 2

Approval of the Isleton Landing Project will not affect the continued use of Mr. Andersson's property as a personal residence. Although Mr. Andersson's property is within the redevelopment area, it is not a parcel proposed for acquisition under the land acquisition plan attached to the Disposition and Development Agreement (see attached Exhibit "D"). Therefore, nothing within the Disposition and the Development Agreement (i.e., the project proposal) affects the present use of the property.

With regard to conversion of the property to commercial use without selling it, as pointed out in the answer to question number 1, Mr. Andersson cannot use his property for commercial purposes. As we pointed out in our letter to Mr. Andersson, both California Health and Safety Code Section 33340 and Section 411 of the Isleton Redevelopment Plan (see attached Exhibit "E") allow for a variance of sorts for those who wish to use their property in a manner contrary to the redevelopment plan. Therefore, theoretically Mr. Andersson could apply for a variance to allow him to use the property for commercial purposes. However, based upon our discussions with experts in the area of redevelopment, we concluded that it is extremely difficult and unlikely for an individual property owner to obtain a variance within a redevelopment area in order to use his property in a manner contrary to the redevelopment plan. Further, the conflicts with the EIR may render the variance procedures inapplicable.

Mr. Andersson could sell the property, either to the Redevelopment Agency or to a third party. As we stated in the letter to Mr. Andersson, however, Health and Safety Code Section 33393 would only allow Mr. Andersson's property to be obtained by the agency through eminent domain proceedings. It is our understanding of the law of condemnation that the fair market value of real property in eminent domain proceedings must be determined as though it is neither increased nor decreased in value by reason of the public project (i.e., the redevelopment plan). Therefore, although he could sell the property to the Redevelopment Agency, provisions of redevelopment law require the property to be sold for an amount equal to the value of the property prior to the redevelopment plan being adopted. Consequently, there would be neither a gain nor a loss caused by the redevelopment plan if Mr. Andersson were to sell his property to a redevelopment agency. Further, as we previously concluded, the question of sale of the property to the redevelopment agency is totally unrelated to and is not impacted by the Isleton Landing Project.

It is also possible the Mr. Andersson could sell his property to a third party. However, the experts we consulted stated that they were unaware of a piece of property in a redevelopment area ever being sold at any price on the theory that the purchaser might obtain a variance for the use of the

property. The experts stated that the process of redevelopment places all property owners within a redevelopment area in the same position, because uses of the different pieces of property are predetermined. Therefore, variances are highly unlikely because they tend to conflict with the surrounding project uses as proposed, as well as place other owners within the area at a disadvantage.

Even if one were to conclude that the redevelopment plan decreased Mr. Andersson's ability to sell his property, this is again unrelated to the Isleton Landing Project, and therefore, it does not affect Mr. Andersson's ability to vote on the project.

Question No. 3

If the Isleton Landing Project is not approved, would there be any limitations on Mr. Andersson's ability to continue to use his property as a residence, to convert the property to commercial use without selling it, or to sell his property?

Answer to Question No. 3

The answer to question number 3 does not vary significantly from the answer to question number 2. However, it is theoretically possible that another project proposal could include Mr. Andersson's property within its land acquisition area. In that case, one might assume that disapproval of the Isleton Landing Project might result in approval of a project in the future which would discontinue Mr. Andersson's use of his property as a personal residence. However, as stated previously, in order to acquire the property, eminent domain proceedings would be required to be instituted. Consistent with Health and Safety Code Section 33393, Mr. Andersson's property would be obtained at the fair market value prior to the adoption of the redevelopment plan.

Further, the issue as to whether a future project proposal might include acquisition of Mr. Andersson's property would be speculative at best. On that basis, one cannot conclude that approval of the Isleton Landing Project would have a different impact upon Mr. Andersson's property than approval.

Question No. 4

If the Isleton Landing Project is approved, what are the project time lines for completion of the project? Would any limitations on Mr. Andersson's use of his property change as the various project phases are completed?

Answer to Question No. 4

It is difficult to determine what the time lines are should the Isleton Landing Project be approved within the next

month. This schedule of performance for the Disposition and Development Agreement submitted on December 12, 1984, stated that if the industrial development bonds were not sold by December 31, 1984, the developer could terminate the agreement or arrange alternative financing on or before December 31, 1985. Essentially, this indicates that approval on the project could be delayed until the end of 1985.

Assuming that industrial development bonds are sold or alternative financing is arranged, phase two in the schedule of performance indicates that the developer would have 3 months from the date of this agreement (or the date financing is arranged) to submit preliminary drawings to be used for the project. Further deadlines are set forth in phase three. The Phase four scheduled for the construction phase indicates that the project is to be completed within 24 months of commencement (see attached Exhibit "F").

None of these time lines appear to impact on the use of Mr. Andersson's property. Neither the redevelopment plan adopted by the City Council nor the Disposition and Development Agreement indicate that the use of Mr. Andersson's property could or would change as the various project phases are completed. It is theoretically possible that the redevelopment plan could be amended to redesignate the use of Mr. Andersson's property. However, nothing indicates that the redesignation is being considered or would take place.

Question No. 5

If the Isleton Landing Project is not approved, what specific alternative or additional projects are included in the redevelopment plan?

Answer to Question No. 5

The Isleton Redevelopment Plan does not set forth any alternative or additional projects. The nature of the plan is that a project or projects will be approved by the Redevelopment Agency as they are submitted. As is evidenced by the Redevelopment Plan, the City of Isleton is to be transformed into a planned community existing of residential, commercial and industrial areas. Presumably, any project which purports to fall within the guidelines of the adopted redevelopment plan will be considered.

Question No. 6

Are any of the answers to the above questions in dispute locally?

Kathryn E. Donovan, Esq.
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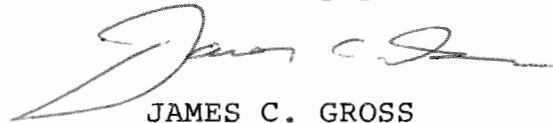
Answer to Question No. 6

Although all of the specifics as to disputed matters are not available to our client, it is clear that many of these items are disputed. First of all, the City Attorney, Philip Mering, indicated at the Redevelopment Agency meeting in February, 1985 that he disagreed with our conclusion as to Mr. Andersson's right to vote on the Isleton Landing Project. That indicates that Mr. Mering would disagree with our conclusions. Further, it is our belief that for one reason or another, certain parties within the City of Isleton would dispute the designations of Mr. Andersson's property discussed in this letter and the impact of the market analysis and the EIR. These disputes would contain both questions of law and fact.

On that basis, we believe that the Fair Political Practices Commission should conduct an extensive review of all matters relating to the Isleton Redevelopment Agency, the Redevelopment Plan, and the Isleton Landing Project. Many questions remain unresolved as to each member of the agency's interest relative to the redevelopment plan and the Isleton Landing Project. Further, there are other approaches to the issue of disqualification which should be considered by the Commission staff.

I hope this provides you with the information you need. If any further information is needed or you have questions, please contact me.

Very truly yours,



JAMES C. GROSS

JCG:ss

Encls.

cc: Mr. Hal Andersson

State of California



Fair Political Practices Commission

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• • Statements of Economic Interest • •
322-6444

April 1, 1985

James C. Gross
Nielsen, Hodgson, Parrinello
& Mueller
1030 Fifteenth Street, Suite 250
Sacramento, CA 95814

Re: Isleton Redevelopment Agency,
Our File No. A-84-325

Dear Mr. Gross:

Thank you for your letter in response to my request for information regarding the Isleton Redevelopment Agency and Mr. Halvard Andersson's property. However, based on the information you have provided, I am unable to provide further advice regarding Mr. Andersson's duties under the Political Reform Act.

The basis for your opinion that the proposed Isleton Landing Project will have no foreseeable material effect on Mr. Andersson's real property is in dispute by the various parties involved in that matter. When providing advice to a public official about his duties under the Political Reform Act, we do not act as factfinders. My first advice letter to Mr. Philip Mering, dated January 30, 1985, explains the standards for determining whether a public official may participate in a governmental decision which could affect his real property interests. Because the material facts about Mr. Andersson's property are in dispute, I am unable to provide additional written advice for Mr. Andersson at this time.

Very truly yours,

Kathryn E. Donovan

Kathryn E. Donovan
Counsel

KED:nwm